



## COMMUNITY DEVELOPMENT DEPARTMENT

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### PLANNING COMMISSION MEETING MINUTES

#### REGULAR MEETING

FEBRUARY 8, 2011

PRESENT: Mueller, Moniz, Tanda, Koepp-Baker, Benich

ABSENT: None

LATE: None

STAFF: Interim Community Development Director (ICDD) Piasecki, Planning Manager (PM) Rowe, Senior Planner (SP) Tolentino, City Attorney (CA) Wan

Chair Mueller called the meeting to order at 7:00 p.m., inviting all present to join in reciting the pledge of allegiance to the U.S. flag.

#### **DECLARATION OF POSTING OF AGENDA**

Planning Manager Rowe certified that the meeting's agenda was duly noticed and posted in accordance with Government Code Section 54954.2.

#### **OPPORTUNITY FOR PUBLIC COMMENT**

Chair Mueller opened, and then closed, the floor to public comment for matters not appearing on the agenda as none were in attendance indicating a wish to address such matters.

#### **MINUTES:**

**JANUARY 25, 2011 COMMISSIONERS MONIZ AND KOEPP-BAKER MOTIONED TO APPROVE THE JANUARY 25, 2011 MINUTES WITH THE FOLLOWING REVISIONS:**

**Page 9 Para 8:** Mueller: So we could do a condition for you to work with the HOA on the fencing and you're amenable to the 54% FAR **and the requirement for a new model?**

**THE MOTION PASSED (4-0-1-0) WITH THE FOLLOWING VOTE: AYES: UNANIMOUS; NOES: NONE; ABSTAIN: TANDA; ABSENT: NONE.**

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**ORDERS OF THE  
DAY**

No changes.

**CONTINUED  
PUBLIC  
HEARINGS:**

**1) SUBDIVISION,  
SD-09-08/  
DEVELOPMENT  
AGREEMENT,  
DA-09-06/ZONING  
AMENDMENT,  
ZA-09-09:  
CENTRAL-UCP:**

A request for approval of a precise development plan, Development Agreement and subdivision approval on a 4.73 acre site located on the south side of East Central Avenue between Calle Mazatan and Butterfield Boulevard. The proposed project is a 32 lot single family residential development. The proposed zoning amendment is from R-2(3,500)/RPD, Multi-Family Low Residential Planned Development to R-1 (4,500)/PD, Single Family High Planned Development zoning district. (APN 726-22- 056)

**Recommendation:** Re-Open Public Hearing/continue to February 22, 2011.

Rowe presented his staff report and asked that the hearing be continued to February 22, 2011.

Mueller reopened the public hearing.

**COMMISSIONERS KOEPP-BAKER AND TANDA MOTIONED TO CONTINUE AGENDA ITEM NO. 1 TO FEBRUARY 22, 2011.**

**THE MOTION PASSED (5-0-0-0) WITH THE FOLLOWING VOTE:  
AYES: UNANIMOUS; NOES: NONE; ABSTAIN: NONE; ABSENT: NONE.**

**PUBLIC  
HEARINGS:**

**2)URBAN  
SERVICE AREA,  
USA-10-01/  
ANNEXATION,  
ANX-10-01/  
ZONING  
AMENDMENT,  
ZA-10-04:  
JASMINE-TON-  
NU:**

These applications are a request to include a .162 acre portion of a 1.13 acre county parcel into the City of Morgan Hill's Urban Service Area and City Limits. The proposed City zoning designation would be R-112,000/RPD; the .162 acre area is currently a paved section of Jasmine Way and will continue to be used for street right-of-way after incorporation into the City of Morgan Hill. (portion of APN 728-18-004)

**Recommendation:** Open Public Hearing/Table

Rowe presented his staff report and asked that the item be tabled, as the property owner had not consented to the applications that were filed.

Benich: What if Mr. Nu refuses to consent to this? What will be the city's action?

Rowe: We would work out an agreement with the county roads department. That agreement would basically be that the city would assume the right of way responsibility for the maintenance of the road if it doesn't get annexed.

Mueller opened the floor to public comment.

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Mr. John Cheng, the husband of the property owner, appeared to object to the annexation and stated that the applicant did not notify them of the application.

Mueller closed the public hearing.

**COMMISSIONERS KOEPP-BAKER AND TANDA MOTIONED TO TABLE ITEM 2.**

**THE MOTION PASSED (5-0-0-0) WITH THE FOLLOWING VOTE:  
AYES: UNANIMOUS; NOES: NONE; ABSTAIN: NONE; ABSENT: NONE.**

**3)CONDITIONAL  
USE PERMIT  
AMENDMENT  
APPLICATION,  
UPA-08-11:  
BARRETT-  
COLSON &  
COLSON**

The applicant is requesting approval to amend a conditional use permit for the construction and operation of a congregate care retirement residence approximately 115,600-sf in size. The project site is 5.3 acres in size and is located near the northwest corner of Barrett Avenue and Butterfield Boulevard in an R3 (PD) zoning district (APN 817-30-050).

Tolentino presented her staff report.

Koepp-Baker: So only microwave ovens are allowed, not convection or toaster ovens?

Tolentino: Correct.

Benich: This looks like a copy of the same model that was built over on Cochrane. Is that true?

Rowe: Those units are just now being rented out, but they were not approved for ala carte food service. If they're now operating it that way, then that illustrates the concerns staff has.

Mueller: The meals were supposed to be included with the rent. It was approved under the RDCS exception which says these are not true dwelling units. If they are true dwelling units, RDCS allocations are required. This facility has no allocations. The units on Cochrane have no allocations.

Moniz: Is the project on Cochrane under the same funding constraints as this project?

Tolentino: No, that was fair market value.

Koepp-Baker: So the people renting in this development have to be income qualified?

Tolentino: That is correct.

Koepp-Baker: Don't we already have two other senior projects that are income qualified?

Rowe: There is one under construction on McLaughlin, there is one on West

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Dunne that is approved but not built yet. There is also one on West Dunne near Barnell and Del Monte. But those are all full dwelling units.

Koepp-Baker: If this moves ahead and it's income restricted, do we know what the fees will be for rental, food, laundry, etc?

Tolentino: We've asked the applicant to provide a list this evening.

Mueller opened the floor to public hearing.

Darren Berberian, the director of acquisitions, appeared on behalf of the applicant: We're excited to work on this project. It will offer some really great amenities. Regarding the rents, the 45 percent one bedroom units will have a base rent of \$833 per month, 50 percent is \$855, the 50 percent two bedroom units will be \$996 and the 55 percent two bedrooms will be \$1,177. These are the net rents. They are exclusive of the utility allowance. Amenities provided will be housekeeping, shuttle, laundry and meal services. Housekeeping will be between \$147 and \$200 per month for a weekly cleaning service. Shuttle service will be between \$40 and \$70 per month. It will be available seven days a week, six hours per day. The laundry service is between \$18 and \$36 per month and that is a weekly service. Meals will be between \$700 and \$800 per month. So totals for one bedroom units will be between \$1,939 and \$1,991, and two bedrooms will be between \$2,102 and \$2,283. The Holiday's model that was previously approved would have cost between \$2,700 and \$3700 per month. So our model is a substantial savings. We have modified the unit mix to allow for more square footage. We have eliminated the studios, which were very small. We will be providing the units with microwaves and dishwashers. The vacancy rate for senior housing in Morgan Hill is 0.6 percent. That is extremely low. So there is a huge need for senior housing. Our financing model does not allow us to charge for the ala carte amenities in the rent. We cannot do it because it is a state and federal program and it is not allowed. If you do not vote to approve this amendment, there is no way we can go forward with the project. We would like to see this project happen.

Koepp-Baker: Are you operating any other project in this state with this same kind of model now?

Berberian: No. We have a project in Yreka where we operate a shuttle service, but none with all the other services. It's something that we're going to do more of.

Mueller: What standards would you apply to control the food service?

Berberian: The majority of the tenants (70 percent) in this project are going to be from Morgan Hill and San Martin. 30 percent will come from longer distances to be near their grandchildren. We are putting a lot of money into this dining room so of course we want it to be used by the residents. The emphasis will be for people to eat together in the common dining hall.

Mueller: What age group will be in this project?

Berberian: We have opened it up to 55 or older, but we believe the majority will be

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between 65 to 70 years old, based on past experience and income levels.

Moniz: How do you back up the statistic that 70 percent of the residents will be from the Morgan Hill/San Martin area?

Berberian: We have a market study from Prior & Associates.

Moniz: Is that consistent with your other projects?

Berberian: Yes.

Moniz: Does reality match your marketing study?

Berberian: Definitely. We have a 189-unit senior project in the city of Moreno Valley. It leased in a week.

Tanda: The senior projects you've done are not quite the same as that proposed in Morgan Hill. So for this project, the criteria are that it has to be for seniors and you have to offer a favorable rental rate?

Berberian: Yes. In order to get the tax credits, you have to prove that there is a market. We have roughly 2000 units we've built in the state and we've been doing this successfully for a long time.

Mueller: But those other models are different. You have no experience in providing shuttle service, meal service and laundry service.

Moniz: How soon would occupants have to give notice that they don't want the food service?

Berberian: Probably the same day.

Moniz: But can your third party provide the food if the need is there?

Berberian: Absolutely, we will make sure they do. We understand that we have to do this as part of the Conditional Use Permit.

Mueller: That is only one issue. The other issue is the exemption from our Residential Development Control System (RDSCS) competition. What you just described is an independent dwelling unit. You need 138 allocations that you don't have to operate it like that.

Berberian: Even if the amenities are offered?

Mueller: That doesn't make any difference. The original project was approved under an exemption that said the common kitchen was the primary place where food was provided. If you don't do that, if you treat each unit as an individual dwelling unit, you now need 138 allocations under the RDSCS because then you no longer qualify under the exemption for congregate care.

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John Tarvin, a Morgan Hill resident appeared: I am a strong advocate for senior housing. The facility's 130+ rooms would provide housing for probably 200 people who would spend money in our community. They could also work out an agreement with the YMCA, which would help them. Their families would come here and support our restaurants. The facility would be tuned in to seniors' needs. It would give them a chance to socialize right where they live. It would also give them shuttle service. Right now one round trip for a senior is \$36. This would be much more affordable. Over 10,000 baby boomers are going to be retiring every day over the next 30 years. It's time to figure out a way to make this work because it's a win for everybody.

Mueller: There is already a conditional use permit in place. This is an amendment to that use permit. If this doesn't work out, someone else could come in and use the existing use permit.

Susan Fent, a licensed clinical social worker, appeared to advocate the project: I used to be the director at the senior center. People in my field are very excited to learn about this type of project. This project provides a representation for more income levels. A lot of seniors are leaving this town because they can't afford to stay. We want to provide them with the opportunity to stay. We need to consider the dignity that our older adults deserve. They have the capacity to make these choices on their own. Seniors are much more active now and need to be given options.

Moniz: Can you explain the senior nutrition program?

Fent: The senior center has the senior café. The YMCA provides that service. Approximately 89 seniors eat there every day.

Moniz: How much does it cost?

Fent: It's a \$2.50 donation.

Moniz: Can the facility handle an additional 200 adults per day?

Fent: I think it's something that could be worked out with the YMCA.

Bernie Mulligan, a resident of Morgan Hill, appeared: There are a lot of seniors who are going to be coming "online" soon. Many times living with relatives doesn't work. It's time to take care of our seniors. Let's not be nearsighted. This will help our downtown. This project won't need city money. That's a good thing. We do have very good medical care in Morgan Hill, and it's getting even better, so it's a good place for seniors.

Joyce Peterson, a Morgan Hill resident, appeared: You can't dictate nutrition and meals. My husband and I are seniors and we use our microwave for more of our cooking than anything else. You need to allow people to be independent.

Bert Berson, a Morgan Hill resident, appeared: I can't think of a better use of allocations in Morgan Hill than 130+ senior units. This would contribute to the

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downtown revitalization. I think that many seniors will want the ability to choose what amenities they want to sign up for. This allows freedom.

Mueller: You were suggesting this would be a good use of allocations. This project has none to date. If it needs them, it would have to compete in the RDCS.

Berson: I would suspect that if we desire to get this project done, then ways can be found.

Mueller: We have an existing project approved with an existing use permit. Part of that approval is that the meal plan and the other services would be provided. Under the exemption, as a congregate care facility, they weren't required to get RDCS allocations. We're dealing with an RDCS exemption issue. It seems that from what everyone is suggesting, though, this is now independent living and this project would need to compete to get the allocations.

Berson: The question is, is there a way to get around the competition and to find a way to accommodate them?

Dennis Kennedy, a Morgan Hill resident, appeared: I understand the Commission's concern with RDCS. I ask that you look at Rebecca Tolentino's recommended condition that addresses the issue. The language for congregate care on page 4 of the staff report says that the facility will have a common dining facility providing two meals per day. This facility will have that. This condition allows you to approve the facility within the RDCS. I am a strong proponent of residential control. But I believe we have worked out a way for this project to happen. This will provide a much needed facility for our seniors. It will provide jobs.

Dick Oliver appeared in support of the project: If there's a way that the applicant's project could be approved, with the condition that they compete in the RDCS sometime within the next three years, then that could work. That would achieve a couple of things. 1) There haven't been any senior projects in a long time, so we have an accrual that could be used up. 2) We also haven't had any apartments compete for a couple of years, so it could use up some of those available allotments. There is a way this could work and use up some of those categories that haven't been filled and still be made to fit in the RDCS guidelines.

Bob Dwyer, a Morgan Hill resident, appeared: The Holiday model only works in a very robust economy. Right now the only financing options in the commercial arena are going to be tax credit financed. That's why I was delighted to find Global Premier. They're not going to provide 45 percent common areas unless they plan for them to be used. They're going to do a terrific job running it as an independent congregate care facility.

Moniz: Page 2 of the case analysis, states "providing they can secure tax credits from the state." Do you have secured funding?

Berberian: We will be submitting on March 18<sup>th</sup> for the program. This is not like the 9 percent competitive program, as the Horizons project was funded. It is completely non-competitive, so if the numbers balance out, it is almost a guaranteed

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funding source.

Moniz: So for all intents and purposes, the funding is there?

Berberian: Most definitely.

Mueller called for a break at 8:00 pm and reconvened at 8:15 pm then suspended Agenda Item No. 3 to follow Item No. 4.

## **OTHER BUSINESS:**

### **4)AWARD AND DISTRIBUTION OF RESIDENTIAL DEVELOPMENT CONTROL SYSTEM(RDCS) ALLOCATIONS:**

Final award and distribution of the Residential Development Control System (RDSCS) small project, micro project, senior housing and open market project competitions for FY 2012-13

Rowe presented his staff report and stated that applicants were given a chance to appeal the commission's decisions. No appeals were filed so scores are final.

Benich: My concern is that we're continuing to give allocations when many projects have already asked for extensions and these new projects are probably going to need extensions too.

Tanda: Can you tell us when we're going to be updated on how many projects are going to ask for extensions on their commencement of construction dates and how close we're getting to the population cap?

Rowe: That will be coming up in about a month or six weeks' time.

Mueller: For purposes of a second year, those units could actually be built at the same time as the first year's units as long as they're not occupied until the first day of the second fiscal year, correct?

Rowe: Yes, there is an early start of construction policy that allows developers to commence construction early as long as units are not completed for occupancy earlier than that.

Mueller: So the development community should be made aware of that.

Mueller opened the floor to public hearing.

Scott Schilling of Benchmark Communities appeared and stated his support of Planning Commission's recommendations.

Dick Oliver of Dividend Homes appeared. Referring to a letter sent to Mr. Rowe in October 2010, at the time we sent the letter we asked for at least seven ongoing units. My understanding was that if we were able to start construction before February 8, we would be able to qualify for 15 units. We have met the condition and would appreciate the 15 units.

Rowe: The reason we are only recommending seven units, is that it lowers the



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balance to complete the project into two automatic 15-unit ongoing allocations in future years. The other reason is that they already have 93 units in reserve, plus the seven being given now, leaves 100 in reserve. Now that the project is actively building again, it is also eligible to receive allocations from other projects that aren't able to move forward. If those projects that have not proceeded lose their allocations, then Mission Ranch, which is the oldest ongoing project, would be first in line to acquire those units. Additionally, this recommended distribution makes it possible for all projects to proceed (except for the Chellino project, which was the lowest scoring project.)

Oliver: If that is important for staff, and if the minutes could reflect that Mission Ranch can receive additional units when other projects lose their allotments, we could show that to the owner and that should be enough to satisfy them.

Mueller closed the public hearing.

**COMMISSIONERS BENICH AND MONIZ MOTIONED TO AWARD THE DISTRIBUTION OF ALLOCATIONS AS RECOMMENDED BY STAFF.**

**THE MOTION PASSED (5-0-0-0) WITH THE FOLLOWING VOTE: AYES: UNANIMOUS; NOES: NONE; ABSTAIN: NONE; ABSENT: NONE.**

**3)CONDITIONAL  
USE PERMIT  
AMENDMENT  
APPLICATION,  
UPA-08-11:  
BARRETT-  
COLSON &  
COLSON  
(continued)**

Mueller returned to Agenda Item No. 3.

Koepp-Baker: Are you happy with the parking situation?

Tolentino: Yes, there is a condition added that they provide one more parking stall.

Tanda: Are you satisfied with the adequacy of the EIR?

Tolentino: Yes, because the trips were based on square footage, so it wouldn't affect the EIR.

Tanda: It seems with the age of the residents being lowered to 55 that would create more drivers, and therefore would require more parking. But if you're satisfied, then I have no issue.

Benich: It's pretty clear that we need more senior housing in Morgan Hill and I am in favor of the project, but I am concerned about eliminating meals and having everything go ala carte—especially because this is geared toward seniors with limited income. My fear is that if all the meals are eliminated, there could come a point where seniors would be skimping on food and would use their income to do other things and they would look at these kitchens as a way to get by. I would like to see at least one meal included in the rent. I think we could re-do the wording to include one midday prepared meal daily.

Koepp-Baker: I am very much in a quandary. How can we do this and remain legally in the bounds of the RDCS? The other thing is that we did not have the information regarding cost of the ala carte items. I now believe, based on Darren's testimony, that it is possible to do this on an ala carte basis. But can we do it within

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the RDCS requirements?

Moniz: I am convinced that this is within the bounds of RDCS; I can't see why we can't move forward with this.

Tanda: I also felt it was within the RDCS requirements. If the service is provided and people choose not to use it, that should be at their discretion. I don't think we can legislate how people eat. Maybe a meal ticket program could be set up such as at universities. If this is for couples, however, this is much more money than my wife and I spend on food each month. I'd like to hear from our attorney regarding the legality.

Danny Wan, City Attorney, appeared. The RDCS is unique to Morgan Hill. There are two documents that are important to consider. There is a council policy that states that one exemption to the RDCS is congregate care. So the question becomes, what is a congregate care facility? That goes back to the definition in the Municipal Code. One reasonable interpretation is that as long as the facility provides the meals and makes them available to the residents, it could be considered a congregate care facility. But let's look at the worst case scenario. What if too few people subscribe to the meal plan and the director decides sometime in the future that it is no longer cost effective to operate the kitchen, and then they convert the dining hall into another use? Then it would no longer fit in the definition of a congregate care facility and they would be in violation of the codes. What do we do then? One alternative suggestion is to require that as part of the conditional use permit, they keep the kitchen open at all times, regardless of whether it's economically feasible or not. It has to remain a congregate care facility. Other than that, it's up to your reasonable interpretation.

Mueller: If you say that the meals are not part of the base rent, then they become apartments. At that point, they need to have allocations just like other apartments. Then that leads to questions about whether a half-kitchen would be enough to qualify as an apartment.

Wan: The muni code does allow for half-kitchens in congregate care facilities. So in the literal reading you can reasonably say that these fit within the definition. But that is still up to your interpretation.

Benich: Perhaps Commissioner Tanda has a better suggestion in that each resident must purchase 30 meals tickets per month. Then they would have the option of choosing which meals or days they wanted to eat in the kitchen, but it would keep the kitchen going.

Mueller: So you're saying we should require it in the base rent?

Benich: Well, either that or a requirement for 30 meal tickets in addition to the base rent.

Koepp-Baker: Rebecca, is there a difference in the definition between apartments and suites, as they're now being called?

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Tolentino: No.

Moniz: Is staff comfortable with the language that is presented tonight?

Wan: It goes to my suggestion that the facility must operate and maintain a kitchen at all times.

Tolentino: Should the Commission decide to go with ala carte, this measure is provided for Planning Commission's use but staff's recommendation is still to require meals.

Benich: I don't like the wording. This seems to give the applicant the ability to close the kitchen down for one meal a day. It gives them the choice of when they will and won't be open during the day.

Wan: The language comes directly from the code.

Mueller: So you don't think we can do anything about tying these meals into the operation?

Wan: The question is whether the two meals should be included in the base rent. That question is open. It is not addressed in the definition. My understanding is that in order for the applicant to qualify for the tax credit, the rent is set. For you, the question is whether they need to provide these meals within the base rent to fit within the RDCS exemption. One thing to note is that even if you think this is compliant with the RDCS, you could still have the discretion within your conditional use permit to establish some conditions.

Benich: So for the general health and welfare, I think we should require one midday meal within the rent.

Tanda: I would agree with you, but I thought the whole situation was that their business model wouldn't work that way, and if we require it, it would effectively kill the deal. Could applicant address that?

Mueller reopened the floor.

Berberian: Since we are limited to the rents we can charge, we won't be able to finance the project if food is included, even if it's only \$2.50 per day in meals. That would kill the deal.

Moniz: Have you seen the language the City Attorney prepared? And do you agree with it?

Berberian: I just saw it today. The only thing I have a problem with is a clarification of who's paying for the ala carte items.

Moniz: Item B speaks to that.

Berberian: If we could afford to charge higher rents, we would do it. But if we

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violate any of the tax credit laws or any conditions of the use permit, we are out of business. The government is unforgiving and they will shut us down.

Koepp-Baker: So your company will commit to having a kitchen open for as many as three meals a day, seven days a week, with the manager on call anytime from 6:00 am to 7:00 pm?

Berberian: Yes, 100 percent.

Mueller: You will commit to having a dining room, but whether it's open or not is actually up to a third party because you have to contract out those services and they can set their own prices.

Berberian: We would take responsibility for that. We would coordinate that. We control the contract by dictating what vendor comes to the project. They would have to stipulate to reasonable costs. We would have to take a leadership role. I have no problem with that.

Tanda: This seems clear to me. It says that they will provide a dining room for at least two meals a day. The applicant is actually talking about providing three meals a day, which would be going beyond what congregate care requires. It states, "Such kitchen and dining services shall be provided during the entire duration of the use under the conditional use permit." I assume a violation of that would terminate the ability to use the facility. I think if we want to have this facility, there seems to be a way to do it consistent with the provisions of the City of Morgan Hill. This idea of a meal ticket plan, do you think that's reasonable?

Berberian: I think that's actually more efficient and would work better for individual needs, opposed to a monthly rate. We do have numerous senior facilities that don't provide these services, and we haven't had issues with any seniors not being able to feed themselves. And we do provide meals on wheels as a social service.

Koepp-Baker: So you could actually do a meal plan that provided for two meals a day, or three meals a day depending on the individual's needs?

Berberian: Yes.

Benich: Would it be possible to add "using a meal ticket plan" to the language?

Wan: Yes.

Berberian: The only thing I would need to see is who is paying for the service. That's not clear here.

Mueller: So these people would have to pay several different organizations for all these different services?

Berberian: Correct, but we will try to make it as painless as possible.

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Mueller: What about paying these third parties? That could be an enforcement nightmare. Every amenity has to be contracted out, not just the kitchen. The residents would have to be making payments to several different parties.

Tanda: But that's how it functions in the real world. I think there is a way this can be worked out. We've been given the go-ahead legally and we have the discretion to do it.

Moniz: Let's narrow this down to the language regarding the dining facility.

Koepp-Baker: I think we can work the language in and I now no longer have a problem with it. Does that work, Danny?

Wan: I would suggest that word "onsite" be added to the language about the services being offered.

Mueller: I would like to see the word "reasonable" where it pertains to the contract services and also something about enforcement.

Wan: So the suggested language would read, "Services and activities that are offered on an ala carte basis shall be made available onsite to all residents on an ongoing basis, regardless of the number of participants. At a minimum, the following services shall be provided: private bus transportation, laundering, housekeeping and meal services using a meal ticket plan offered at a reasonable price. Global Premier Development shall be responsible for the enforcement of all management contract operations and the provisional services required under B."

Tanda: I suggest that under provision A we change "at least two distinct times per day" to say "at least *three* times per day."

**MONIZ AND TANDA MOTIONED TO APPROVE THE AMENDED CONDITIONAL USE PERMIT WITH THE REVISED LANGUAGE AS DISCUSSED.**

Mueller: I have major reservations.

**THE MOTION PASSED (5-0-0-0) WITH THE FOLLOWING VOTE: AYES: UNANIMOUS; NOES: NONE; ABSTAIN: NONE; ABSENT: NONE.**

### ANNOUNCEMENTS/ COMMISSIONER IDENTIFIED ISSUES

Tomorrow night there is a public meeting on the Draft of the Santa Clara Valley Habitat Conservation Plan. This will be an opportunity to learn more about what the plan is. There is another meeting in Palo Alto on the 15<sup>th</sup>. We will also discuss it at our next meeting.

### CITY COUNCIL REPORTS

At the January 26th City Council meeting the Council approved the Commission's recommendation for the Mission Ranch BMR extension program and the visitability requirements in lieu of the side loading garages.

Benich: I emailed Jim Rowe and requested that he add two items to our RDCS post review process.

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Rowe: That will be an agenda item on March 8<sup>th</sup>.

Tanda: When will we get an update on the General Plan?

Rowe: A year ago the City Council set a goal to begin a comprehensive update of the General Plan in Fiscal Year 2011/12, with the qualifier that we can afford the update. I don't believe they have made a decision yet.

Tanda: If your report shows that we're getting close to the limit of dwelling units allowed under the General Plan, what relevancy does that have for awarding any new building allocations?

Rowe: The City Manager recently asked for a graph showing the projected population given the current backlog of units and the development schedules in place. It shows that the growth curve will go from 40,000 to something exceeding 46,000 in two years' time. Then in order not to exceed the cap, it will limit the number of available allocations to around 95 per year. But there are at least three projects you're going to look at on March 8<sup>th</sup>, that have made zero progress. If those projects and others do not proceed, the cap would be pushed out. But there are a relatively small number of units available in future years.

Mueller: That's not atypical of other times when we've been nearing the cap. But we've never exceeded it. If the vacancy rate goes up or down based on the census, then that could impact the residents per dwelling unit, which also impacts allocations. We could also see an adjustment in our population. So our analysis should be independent of the General Plan update. And we should do it as soon as we get the department of finance population estimate.

Tanda: My presumption was that the cap has a relationship to the General Plan number.

Mueller: It's not tied to the General Plan. The General Plan does use those numbers, but RDCS is a voter passed initiative. The voters can change the cap at any time. All previous ones have been independent of the General Plan update.

Rowe: 2001 was the last comprehensive update of the General Plan. The planning horizon for the update was 2020. The projected population was 48,000. In 2004 Measure C amended the RDCS to extend it out to the planning horizon, So it's generally been the General Plan first and then the RDCS.

Tanda: Can we look at this as an agenda item in the future?

Rowe: Yes.

**ADJOURNMENT**

Noting that there was no further business for the Planning Commission at this meeting, Chair Mueller adjourned the meeting at 9:40 p.m.

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**MINUTES RECORDED AND TRANSCRIBED BY:**

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**ELIZABETH BASSETT, Development Services Technician**

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